761551N25A - SH-AD (11/90)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service since 1850"

DATE: August 17, 2005

OFFICE CORRESPONDENCE FILE:

FROM: RICHARD A. ADAMS, CAPTAIN
LENNOX STATION

TO: REGAN FITZGERALD, DEPUTY
LENNOX STATION

SUBJECT: **WRITTEN REPRIMAND**

An investigation under file number IV 2150719, coupled with your own statements, has established the following:

> That in violation of Manual of Policy and Procedures Section 3-03/120.05, 9MM Ammunition, on or about February 2, 2004, you were involved in an on-duty shooting incident, after which it was discovered that you had unauthorized ammunition loaded in your duty weapon.

You are hereby admonished regarding your conduct with regard to the carrying of authorized ammunition as specified by the Weapons Training Center. You are further admonished that any future incidents of a similar nature may result in more severe disciplinary action.

Richard A. Adams, Captain

I have read and received a copy of this memorandum.

Regan Fitzgerald Date: 09 01.05

Witness [redacted] Date: 09-01-05

Fitzgerald, R[redacted] #[redacted]
Deputy Sheri[redacted]
Lennox Station
Field Operations Region II

The evidence in this investigation <u>supports</u> the following charge:

> That the Subject violated Manual Section 3-03/120.05, 9MM Ammunition, as it pertains to authorized ammunition as specified by the Weapons Training Center.

The evidence in this investigation <u>does not support</u> the following charges:

> Manual Sections 3-01/050.10, Performance to Standards and/or 3-01/030.10, Obedience to Laws, Regulations and Orders, as it pertains to 5-09/210.02, Initiation of a Pursuit.
>
> Manual Section 3-01/050.10, Performance to Standards.

Assessment of Mitigating and Aggravating Factors

Severity of Infraction:

Deputy Involved shooting incidents are one of the most critical events faced by members of this organization. Safety of the employee and members of the community at large is the ultimate goal. The facts in this case shows that the actions of the Suspect presented an imminent threat of death or great bodily injury to the deputies thereby resulting in the use of deadly force against him. The use of authorized defensive weapons and their individual components, is critical in order to enhance officer safety and safety to the community. Compliance with applicable policies is essential to avoid unnecessary danger and the potential for negative critical review by outside entities.

Intent, Truthfulness and Acceptance of Responsibility:

The investigation established the Subject was very truthful during his interview. He was candid and admitted he understood the seriousness of having unauthorized ammunition. Subject Fitzgerald was forthright and offered a very plausible explanation for having unauthorized ammunition in his duty weapon.

Degree of Culpability:

The Subject was solely responsible for ensuring that his duty weapon was loaded with the proper ammunition.

Past performance and Disciplinary History:

Subject Fitzgerald has been with the Sheriff's Department for eight years. Prior to this occasion, he was involved in two on-duty shootings. Both of those shooting incidents were deemed to be within policy.

Deputy Sheri[redacted]
Lennox Station
Field Operations Region II

DISPOSITION

Based on the foregoing, the following is the level of discipline to be assessed, subject to revision upon receiving the Subject's response or grievance:

___ Discharge
___ Reduction in Rank
___ Suspension with loss of pay and benefits for ___ Days.
XX Written Reprimand
___ No discipline recommended

761551N25A - SH-AD (11/90)



DATE: August 15, 2005

OFFICE CORRESPONDENCE FILE:

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: RICHARD A. ADAMS, CAPTAIN
LENNOX STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING, FEBRUARY 2, 2004, INVESTIGATION #2108254 / 2150719**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the hit shooting incident which occurred on February 2, 2004.

The Committee met on August 11, 2005, and consisted of Commanders Kenneth Brazile (Commander of the Department), Eric Smith (Leadership and Training Division) and Robert Binkley (FOR III). The Committee deemed:

- as **Founded** the allegation that Deputy Regan Fitzgerald #[redacted] violated the Department's Manual of Policy and Procedure Section 3-03/120.05: 9MM Ammunition.
- as **Unfounded** the allegation that Deputy Regan Fitzgerald #[redacted] violated the Department's Manual of Policy and Procedure Sections: 3-01/050.10, Performance to Standards and/or 3-01-/030.10, Obedience to Laws and Regulations and Orders, as it pertains to 5-09/210.03, Initiation of a Pursuit.
- as **Unfounded** the allegation that Deputy Regan Fitzgerald #[redacted] violated the Department's Manual of Policy and Procedure Sections: 3-01/050.10, Performance to Standards.
- as **Unfounded** the allegation that Deputy Kenneth Brown #[redacted] violated the Department's Manual of Policy and Procedure Sections: 3-01/050.10, Performance to Standards and/or 3-01-/030.10, Obedience to Laws and Regulations and Orders, as it pertains to 5-09/210.03, Initiation of a Pursuit.
- as **Unresolved** the allegation that Deputy Kenneth Brown #[redacted] violated the Department's Manual of Policy and Procedure Sections: 3-01/050.10, Performance to Standards.

The Committee recommended that Deputy Fitzgerald receive a **Written Reprimand.**

The Committee directed the Unit Commander to ensure that Deputy Brown receives additional Laser Village and CPT force-related training.

JGJ:MAH:mh

Table of Contents

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT
PERSONNEL INVESTIGATION

DATE	No. OF SUBJECTS	UNIT(S) INVOLVED	I.A.B. FILE No.
07-15-05	2	Lennox Station	2150719

MANUAL SECTIONS ALLEGEDLY VIOLATED (BY TITLE AND No.)
3-01/050.10, Performance to Standards, 3-03/120.05, Authorized Ammunition

DATE, TIME, DAY OF OCCURRENCE: February 2, 2004, 2345 hours Monday
RELATED URN FILE No. IF APPLICABLE: 004-01208-0399-013

LOCATION OF OCCURRENCE: [redacted] W. 98th Street, Los Angeles, CA

SOURCE OF COMPLAINT: ☐ COMMUNITY ☒ SUPERVISION W/C REPORT No. ______ ☐ OTHER SOURCES (SPECIFY) ______

SUBJECT	LAST NAME	FIRST NAME	M.I.	RANK OR TITLE	EMP. No.
No. 1 OF 2	Fitzgerald	Regan		D.S.G.	[redacted]

UNIT OF ASSIGNMENT: Lennox Station
DATE ASSIGNED:
DIVISION OR REGION: Field Operations Region II

STATUS OF SUBJECT: ☒ CONTINUING ON DUTY ☐ RELIEVED OF DUTY - REASSIGNED TO: ______ ☐ OTHER ______

SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	D.O.B.	AGE
Male	white	Brown	Brown	6-01	190	[redacted]	[redacted]

DATE OF HIRE: 08-26-1996
DATE APPOINTED TO RANK: 08-26-1996
INTERVIEW TAPE RECORDED ON TAPE Digital OF # SIDE ☐ A ☐ B DATE ______ TIME ______

DATE	I.A.B. FILE No.	MANUAL SECTION(S) VIOLATED	DISCIPLINE
		NONE	

SUBJECT	LAST NAME	FIRST NAME	M.I.	RANK OR TITLE	EMP. No.
No. 2 OF 2	Brown	[redacted]	[redacted]	DSG	[redacted]

UNIT OF ASSIGNMENT: Lennox Station
DATE ASSIGNED: 12-10-2003
DIVISION OR REGION: Field Operations Region II

STATUS OF SUBJECT: ☒ CONTINUING ON DUTY ☐ RELIEVED OF DUTY - REASSIGNED TO: ______ ☐ OTHER ______

SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	D.O.B.	AGE
Male	White	Brown	Brown	6-01	180	[redacted]	[redacted]

DATE OF HIRE: 07-12-1999
DATE APPOINTED TO RANK: 07-12-1999
INTERVIEW TAPE RECORDED ON TAPE ______ OF ______ SIDE ☐ A ☐ B DATE ______ TIME ______

DATE	I.A.B. FILE No.	MANUAL SECTION(S) VIOLATED	DISCIPLINE
		NONE	

CODE: C - COMPLAINANT, W - WITNESS
ADDITIONAL COMPLAINANTS, WITNESSES, OR SUBJECTS ON SUPPLEMENTAL PAGES ☐ YES ☐ NO

CODE	LAST NAME	FIRST NAME	M.I.	SEX	RACE	D.O.B.
No. OF						

RESIDENCE ADDRESS — RES. PHONE (AREA CODE) ( )
BUSINESS ADDRESS OR UNIT OF ASSIGNMENT — CDL OR LASD EMPLOYEE NO. — BUS. PHONE (AREA CODE) ( )
INTERVIEW TAPE RECORDED ON TAPE ______ OF ______ SIDE ☐ A ☐ B DATE ______ TIME ______

CODE	LAST NAME	FIRST NAME	M.I.	SEX	RACE	D.O.B.
No. OF						

RESIDENCE ADDRESS — RES. PHONE (AREA CODE) ( )
BUSINESS ADDRESS OR UNIT OF ASSIGNMENT — CDL OR LASD EMPLOYEE NO. — BUS. PHONE (AREA CODE) ( )
INTERVIEW TAPE RECORDED ON TAPE ______ OF ______ SIDE ☐ A ☐ B DATE ______ TIME ______

PRIMARY INVESTIGATOR	RANK	EMP. No.	APPROVED	DATE
Landreth, Larry L.	Sergeant	[redacted]		

ASSISTING INVESTIGATOR	RANK	EMP. No.	DATE SUBMITTED

SH-AD-669-2/93

IF ADDITIONAL SUBJECTS, WITNESSES, COMPLAINANTS OR DISCIPLINE HISTORIES, LIST ON CONTINUATION PAGES.

SHERIFF'S DEPARTMENT PERSONNEL INVESTIGATION

I.A.B. FILE No. 2150719

NARRATIVE SHOULD BE AN OBJECTIVE AND UNBIASED STATEMENT OF THE FACTS; INVESTIGATOR OPINIONS SHALL NOT BE INCLUDED.

No. OF ITEMS	LIST EXHIBITS/EVIDENCE FIRST (IF STORED, STATE LOCATION - AUDIO TAPES SHOULD BE CLEARLY LABELED), THEN BEGIN NARRATIVE.
2	ADMINISTRATIVE RIGHTS FORMS. (ATTACH ONE FORM FOR EACH EMPLOYEE INTERVIEWED)
	AUDIO TAPES. ALL INTERVIEWS SHALL BE TAPE RECORDED AND ALL TAPES MUST BE INCLUDED. (LIST EACH INTERVIEWEE BY NAME.)
1	IInterview of Subject Brown, recorded on digital format, digital # 15185
1	IInterview of Subject Fitzgerald, recorded on digital format, digital # 15186

NARRATIVE CAN BE CONTINUED ON SH-AD-49 CONTINUATION FORM OR PLAIN BOND.

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

IV 2150719
X-Ref: SH2108254

Subjects: **FITZGERALD, Regan, Deputy Sheriff, Employee #[redacted]**
BROWN, [redacted] Deputy Sheriff, Employee #[redacted]

Date: **February 2, 2004, (Monday), 2345 hours**

Location: **1769 W. 98th Street, Los Angeles, CA 90012**

This case pertains to a deputy involved hit shooting that occurred on February 2, 2004, involving Deputies [redacted] Brown, Regan Fitzgerald, Daniel Leon, #[redacted] and Carlos Lopez, #[redacted]

Deputies Fitzgerald and Brown were assigned as Lennox Station 31, on the early morning shift, and were driving northbound on Western Avenue, in the city of Los Angeles, when they stopped for the red traffic signal at 98th Street. They saw between four and seven males in or around two vehicles parked along the east curb line of Western Avenue, north of 98th Street, that appeared to be suspicious. The deputies proceeded through the intersection and stopped along the side of the two vehicles.

As the deputies' vehicle came to a stop, two of the males, Suspect Eric Lamont Wilson and Suspect Lennard Evans, began to back away and appeared to be distancing themselves from the vehicles. Both suspects produced handguns from their persons and began to run southbound on Western from the vehicles. Deputies Fitzgerald, the book man, and Deputy Brown, the driver, exited their vehicle and chased after the two males. Deputy Brown attempted to radio emergency traffic as they chased the two males. Both males ran around the corner of the building at 98th Street and as Deputy Fitzgerald rounded the corner, Suspect Wilson was running pointing the handgun over his left shoulder at Deputy Fitzgerald. Suspect fired between one and two rounds at Deputy Fitzgerald, who returned fire. Deputy Brown, running slightly behind Deputy Fitzgerald, ran wide around the corner of the building, onto the grassy area of the sidewalk, just as the first shots from the suspect and Deputy Fitzgerald rang out. Deputy Brown saw Suspect Wilson pointing the handgun at them and returned fire. Suspect Evan continued running in a southeasterly direction on 98th Street. Suspect Wilson, struck by gunfire, fell to the sidewalk in front of [redacted] W. 98th Street. Although down, the handgun was very close to his right hand. Deputy Brown radioed that they had been involved in a shooting and units began to respond for assistance. He also radioed that the second male was last seen running east from the location.

Deputy Brown looked back toward where the vehicles and other males had been and saw that only one vehicle remained and one male was seen standing next to the vehicle. Deputy Brown ordered the male to place his hands up in the air and not to move. The male remained and attempted to take cover from the gunfire, next to the vehicle. Assisting deputies, Leon and Lopez, Lennox 34, acknowledged the assistance request and started to coordinate responding units to cordon off the

area and prevent the escape of the second suspect. Deputies Leon and Lopez arrived and stopped in the intersection of Western Avenue and 98th Street. Suspect Wilson was still moving on the sidewalk and Deputies Brown and Fitzgerald maintained their weapons pointed at Wilson. Deputy Brown directed Leon to detain the third male and place him in their back seat. Deputy Lopez moved to a position between Deputies Fitzgerald and Brown on the sidewalk of 98th Street and Western Avenue. After detaining the third male, Deputy Leon went back to the driver's door of his unit and maintained cover on the suspect. Suspect Wilson, still moving, defied orders and began to reach for the handgun. Believing the suspect was about to rearm himself and fire at the deputies, all four deputies fired their weapons at the suspect, who was struck and remained motionless.

The deputies waited until additional units arrived and tactically approached Suspect Wilson, removed the handgun from his grasp and took him into custody. Paramedics arrived and pronounced Suspect Wilson deceased at the scene. The second suspect, Lennard Evans, was not located within the established containment area. He later turned himself into personnel at Lennox Station. The third male, Devel Thompson, was taken into custody, interviewed by Homicide Bureau investigators and released.

On August 31, 2004, Los Angeles County Deputy District Attorney Daniel Baker issued a Letter of Opinion regarding the legality of the deputy involved shooting. In Baker's letter, he deemed Deputies Brown, Fitzgerald, Leon and Lopez acted lawfully in self-defense.

On June 23, 2005, Internal Affairs Bureau Sergeant Larry Landreth presented the details of the incident to the board members of the Executive Force Review Committee. Commanders Jurado, Binkley and Smith evaluated the incident and ordered an administrative investigation naming Deputies Fitzgerald and Brown as subjects of the investigation. The Board recommended that Deputy Lopez attend a training critical incident analysis debriefing by Training Bureau concerning his tactics as it relates to proper cover. The Board found that Deputy Leon acted within policy and his tactics were sound.

IAB Note: for the complete details of the incident refer to Exhibit A, a copy of the Leadership & Training Division Response Team Incident Summary, which includes Homicide Bureau's investigative report.

The allegations in this case are on February 2, 2004, Subjects Regan Fitzgerald violated Manual of Policy and Procedures sections, *3-01/050.10, Performance to Standards*, as it related to his decision to chase after two armed men, while not detaining the other males who remained at the vehicles and establishing a containment. And, *3-03/120.05, Authorized Department Ammunition.*

IAB Note: During Homicide Bureau's investigation it was revealed that Subject Fitzgerald's weapon contained Federal "HydraShok" 9mm rounds. These rounds are not approved by Weapons Training Bureau. The only rounds approved by the Department are Winchester Ranger "T" 9mm luger rounds (RA9SXT). Refer to Exhibit A, "Exhibit C",

letter dated, July 21, 2000, "Sole Source Manufacturer Justification Winchester 9mm Ammunition Product Code RA9T."

It is alleged that on February 2, 2004, Subject [redacted] Brown violated Manual of Policy and Procedures section *3-01/050.10, Performance to Standards* as it relates to his decision to pursue the two armed men and not establish a containment to capture the two armed males who fled, while not detaining the other males, who remain at the vehicles. Subject Brown's tactical positioning, allegedly without cover and concealment, at the outer edge of the sidewalk was potentially also a violation of the *Performance to Standards* section.

Sergeant Larry Landreth was tasked with the investigation to determine if both subjects violated Department policy.

SUBJECT INTERVIEWS

SUBJECT - DEPUTY REGAN FITZGERALD, [redacted] was interviewed on July 25, 2005. The interview took place at the offices of the Internal Affairs Bureau. Subject Fitzgerald was represented by Ms. Elizabeth Gibbons, of the Law Firm of Green & Shinee. The interview was digitally recorded and a copy of the transcribed interview is provided.

Subject Fitzgerald told investigators that as he and Subject Brown traveled north on Western Avenue they saw the two vehicles parked along the east curb line. They saw three males around the two vehicles and two more males standing near the vehicles and other males. As Subjects Brown and Fitzgerald became closer, it was not clear if the two males, Wilson and Evans were associated with the other males. When the subjects were very close was when both suspects, Wilson and Evans, drew handguns and began to back away before turning and running south on Western Avenue. Subject Fitzgerald said that he was forced to make a split-second decision on who was the greater threat to himself, his partner or the public-at-large. Fitzgerald believed that Wilson and Evans were the greatest threat for if they had stopped at the corner of 98th Street and Western Avenue and decided to engage them, he felt he and Brown were at a distinct disadvantage. Fitzgerald said he was aware of the other males left near the vehicles and observed that they did not flee when Evans and Wilson fled. In Fitzgerald's mind he said he thought that Wilson and Evans may have not been associated with the other males and were possibly about to rob or assault them.

Subject Fitzgerald said that he was aware that his partner, Subject Brown, was behind him the entire time he was chasing after the suspects. When Fitzgerald reached the corner of the building at 98th and Western, he stopped and peered around to see the direction in which the suspects were running and that is when he saw Suspect Wilson pointing the weapon at him. When the first round was fired by the suspect, Subject Fitzgerald said he was in fear for his life and returned fire. Subject Fitzgerald said that his backdrop was a clear pathway down the sidewalk all the way to Harvard Street. Subject Fitzgerald said he would have stopped at the corner and establish a containment of the suspects had both of the suspects continued running away.

Subject Fitzgerald said of the unauthorized ammunition found in his magazines by Homicide Bureau investigators that he purchased a box of 9mm rounds from the Los Angeles Police Department

Revolver and Athletic Club store at Elysian Park in the past to place in extra magazines. He carried extra loaded magazines in his patrol bag and routinely rotated them between the county issued magazines to take pressure off of the magazine springs. Fitzgerald said that when he purchased the box of 9mm rounds he asked for a box of 9mm 147 grain rounds. The store sold him the "Hyrda Shok" rounds and he did not notice the difference between the rounds and what is authorized by the Sheriff's Department.

IAB Note: To review a complete transcription copy of Subject Fitzgerald's IAB interview, see the attached copy of the interview.

SUBJECT - DEPUTY [redacted] BROWN, [redacted] was interviewed on July 25, 2005. The interview took place at the offices of the Internal Affairs Bureau. Subject Fitzgerald was represented by Ms. Elizabeth Gibbons, of the Law Firm of Green & Shinee. The interview was digitally recorded and a copy of the transcribed interview is provided.

Subject Brown told investigators that as he drove north on Western Avenue with his partner, Subject Fitzgerald, who was in the passenger seat, they saw the vehicles parked along the east curb line. They saw three males around the two vehicles and two more males standing near the vehicles and other males. As Subjects Brown and Fitzgerald became closer, it was not clear to Brown if the two males, Wilson and Evans were associated with the other males. When the subjects were very close was when both suspects, Wilson and Evans, drew handguns and began to back away before turning and running south on Western Avenue. Subject Brown said he saw the suspects pull handguns from their jackets and yelled out to Fitzgerald that they were armed. Subject Brown said that he was forced to make a split-second decision on who was the greater threat to himself, his partner or the public-at-large. Brown believed that Wilson and Evans were the greatest threat for if they had stopped at the corner of 98th Street and Western Avenue and decided to engage them, he felt he and Fitzgerald were at a distinct disadvantage. Brown said that he immediately tried to broadcast over the radio that he and his partner were chasing two armed suspects. Brown remained six to nine feet behind Fitzgerald as they chased after both males. Brown said he was aware of the three males who remained by the two cars, but that he believed the two armed males posed a far greater threat to him, his partner and the community.

Subject Brown said as he came up upon the corner he heard the first gunshot and was immediately aware that the suspect had shot at Fitzgerald. Subject Brown said he could not return fire from where he was at because he would have shot Fitzgerald in the back of the head, Brown moved out into 98th Street and shot at the suspect. Brown said his reason for moving out into the street was to split the suspect's attention between two separate targets, Brown and Fitzgerald. Subject Brown said by forming a triangle between the suspect, Fitzgerald and himself, it would force the suspect to engage at only one target, allowing the other partner to end the immediate threat of the active shooter. Subject Brown said that he had no cover in the street and felt that there was little or no cover afforded to him in the area. He said he did not consider retreating back to the corner of the building because they were faced with an active shooter and felt their immediate concern was to remove the threat from the active shooter.

IAB Note: To review a complete transcription copy of Subject Brown's IAB interview, see the attached copy of the interview.

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Hit Shooting Review

Exhibits

Miscellaneous Documents



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY• Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

RICHARD D. DOYLE • Director

August 31, 2004

Captain Raymond Peavy
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File #04-0105
L.A.S.D. Homicide Bureau File # 004-01208-0399-013

Dear Captain Peavy:

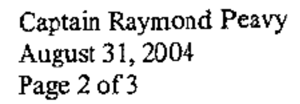
The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 2, 2004, fatal shooting of Eric Lamont Wilson by Los Angeles County Sheriff's Department Deputies Regan Fitzgerald, Kenneth Brown, Daniel Leon and Carlos Lopez. It is the conclusion of this office that the Deputies involved in the shooting acted lawfully in self-defense.

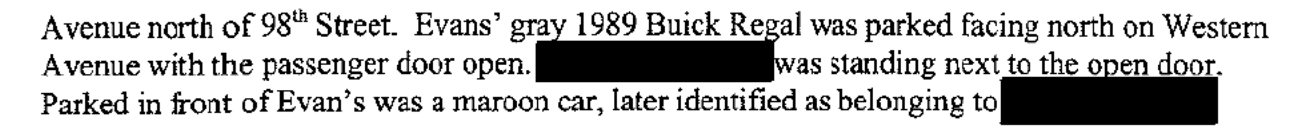
The following analysis is based on reports prepared by County of Los Angeles Sheriff's Department Detective Division and Homicide Bureau, submitted to this office on June 25, 2004, by Sergeant Kenneth Clark. No compelled statements were reviewed. The District Attorney Command Center was notified of this shooting at 1:45 a.m. on February 3, 2004. The District Attorney Response Team, consisting of Deputy District Attorney Daniel W. Baker and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the incident and a walk through of the scene by Lieutenant Jim Curtis. No civilian witnesses to the shooting were located.

SUMMARY

At approximately 11:45 p.m. on February 2, 2004, Los Angeles Sheriff Department Deputies Regan Fitzgerald and Kenneth Brown were driving north on Western Avenue when they observed Lennard Evans and Eric Lamont Wilson standing on the east sidewalk of Western

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
WEBSITE: http://da.co.la.ca.us




Avenue north of 98th Street. Evans' gray 1989 Buick Regal was parked facing north on Western Avenue with the passenger door open. [redacted] was standing next to the open door. Parked in front of Evan's was a maroon car, later identified as belonging to [redacted]

As the deputies drove through the intersection of Western Avenue and 98th Street, Wilson and Evans stepped away from the Buick. The deputies saw Wilson and Evans each remove a handgun from their front pockets and start running south on Western Avenue. Deputy Brown stopped the patrol car parallel to the gray Buick and both deputies chased the suspects south on Western Avenue. Wilson and Evans turned east on 98th Street. The deputies broadcast that they were in pursuit and asked for backup as they followed Wilson and Evans.

When the deputies turned east onto 98th Street, Wilson shot at them with a semi-automatic pistol while Evans ran southeast across 98th Street into the darkness. Deputies Fitzgerald and Brown returned Wilson's fire. Wilson fell to the ground on his back, but continued to move.

Deputies Daniel Leon and Carlos Lopez arrived. Deputy Leon handcuffed Thompson, put him in Brown and Fitzgerald's patrol car, then joined Deputies Fitzgerald, Brown and Lopez, who were detaining Wilson. Deputy Fitzgerald instructed Wilson to stop moving several times. Wilson ignored Deputy Fitzgerald's commands and reached for his gun. The deputies then shot Wilson. Paramedic James Oh from the Los Angeles City Fire Department Engine Company #64 arrived on the scene and pronounced Wilson dead at 12:08 a.m.

CONCLUSION

California law permits the use of deadly force in self-defense or the defense of others when a person believes that the use of such force is necessary to protect his own life or the lives of others from great bodily harm or death, and that belief is a reasonable one. People v. Williams (1977) 75 Cal.App.3d 731; People v. Glover (1903) 141 Cal. 233; People v. Ortiz (1923) 63 Cal.App. 662. Whether the belief is reasonable or not is to be judged from the perspective of a reasonable officer at the scene, taking into consideration the circumstances surrounding the use of force, including whether the suspect poses an immediate threat to the safety of the officers or others. Graham v. Connor (1989) 490 U.S. 386, 396-398.

Wilson clearly posed an imminent threat of great bodily harm or death to the deputies. He was armed with a semi-automatic handgun. He shot at deputies Brown and Fitzgerald while attempting to flee from them. Even after being shot, he appeared to be reaching for his gun in spite of being instructed by Deputy Fitzgerald to not move. It was reasonable for the deputies to have believed that Wilson, had he been able to reach his gun, would have continued to try to shoot the deputies.

Given Wilson's conduct, we conclude that Deputies Fitzgerald, Brown, Leon and Lopez acted lawfully in self-defense. Therefore, we are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By [signature]

DANIEL W. BAKER
Deputy District Attorney

c: Deputy Kenneth Brown, #[redacted]
Deputy Regan Fitzgerald, #[redacted]
Deputy Daniel Leon, #[redacted]
Deputy Carlos Lopez, #[redacted]



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
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RICHARD D. DOYLE • Director

September 7, 2004

Captain Raymond Peavy
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 04-0105
L.A.S.D. Homicide Bureau File # 004-01208-0399-013

Dear Captain Peavy:

On August 31, 2004, the Justice System Integrity Division of the Los Angeles County District Attorney's Office completed a review of the February 2, 2004, fatal shooting of Eric Lamont Wilson by off-duty Los Angeles County Sheriff's Deputies Regan Fitzgerald, Kenneth Brown, Daniel Leon and Carlos Lopez. Please discard page one of that letter and replace it with the enclosed revised page one. Please note that the only change, located on line three of the second full paragraph, is the addition of the phrase, "No compelled statements were reviewed." Thank you for your assistance.

Very truly yours,

STEVE COOLEY
District Attorney

By Daniel W. Baker

DANIEL W. BAKER
Deputy District Attorney
(213) 974-4629

c: Deputy Kenneth Brown, #[redacted]
Deputy Regan Fitzgerald, #[redacted]
Deputy Daniel Leon, #[redacted]
Deputy Carlos Lopez, #[redacted]

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